

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

**MEMORANDUM OF LAW IN SUPPORT OF
DEFENDANT SPRINT NEXTEL CORPORATION'S MOTION TO STAY**

Defendant, Sprint Nextel Corporation (“Sprint”), by counsel, states as follows in support of its motion to stay this action pending the conclusion of all proceedings, including appeals, arising out of the United States’ Patent & Trademark Office’s (“PTO”) reexamination of the patents asserted by Plaintiff NTP, Inc. (“NTP”) in the Complaint.

NTP filed the Complaint against Sprint on September 7, 2007, alleging infringement of eight patents,¹ and on that same day filed three additional suits alleging patent infringement against AT&T Mobility, LLC (“AT&T”), T-Mobile USA, Inc. (“T-Mobile”), and Cellco Partnership, d/b/a Verizon Wireless (“Verizon Wireless”). Each of the eight Patents-in-Suit is currently the subject of a reexamination proceeding at the PTO. In fact, the PTO has rejected all

¹ U.S. Patent No. 5,438,611 (“‘611 patent”); U.S. Patent No. 5,479,472 (“‘472 patent”); U.S. Patent No. 5,436,960 (“‘960 patent”); U.S. Patent No. 5,625,670 (“‘670 patent”); U.S. Patent No. 5,819,172 (“‘172 patent”); U.S. Patent No. 6,067,451 (“‘451 patent”); U.S. Patent No. 6,317,592 (“‘592 patent”); and U.S. Patent No. 5,631,946 (“‘946 patent”) (collectively, “Patents-in-Suit”).

of the claims of each of the eight Patents-in-Suit in final office actions. NTP has filed an appeal in each reexamination to the Board of Patent Appeals and Interferences (“BPAI”). Should the BPAI rule against NTP, it can then appeal those decisions to the United States Court of Appeals for the Federal Circuit.

In response to the complaint filed against it, *NTP, Inc. v. Cellco Partnership, d/b/a Verizon Wireless*, Civil Action No. 3:07-cv-549 (JRS), Verizon Wireless filed on September 14 a motion to stay the litigation pending the outcome of all proceedings, including appeals, arising out of these reexaminations at the PTO. This Court had already entered a stay of other litigation recently filed by NTP, alleging infringement of seven of the current Patents-in-Suit, pending the outcome of the same reexamination proceedings. *NTP, Inc. v. Palm, Inc.*, Civil Action No. 3:06-cv-836(JRS), slip op. (E.D. Va. Mar. 22, 2007). NTP did not oppose Verizon Wireless’s motion for a stay of the lawsuit. Rather, NTP conceded that it was amenable to a stay, requesting certain conditions.

Sprint adopts and incorporates herein the facts and arguments set forth in Verizon Wireless’s Motion to Stay, supporting Memorandum of Law, and supporting Reply Memorandum, and asserts those arguments on its own behalf in support of its motion to stay the lawsuit filed against Sprint. Accordingly, Sprint requests the Court to stay this litigation pending the outcome of the reexamination proceedings for the eight Patents-in-Suit, including all appeals therefrom.

Dated: October 1, 2007

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CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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